

**RESPONSE TO WRITTEN COMMENTS RECEIVED ON JUNE 2, 2005
TENTATIVE ADDENDUM NO. 2 TO ORDER 93-86**

On June 2, 2005, the Regional Board received written comments from Mr. Hans Kernkamp General Manager of Riverside County Waste Management. The comments received from Mr. Kernkamp are labeled below as “**DISCHARGER COMMENT:**” and indicated in normal font. The Regional Board staff responses to those comments are labeled as “**REGIONAL BOARD RESPONSE**” and indicated in *italicized font*.

DISCHARGER COMMENT: Please clarify whether or not the Anza Sanitary Landfill is subject to all the requirements of Addendum No. 2. It appears that the Regional Water Quality Control Board (RWQCB) intends for Item 4 (Add the following as §13.(b)5...) to apply to submittals regarding the Anza Sanitary Landfill.

REGIONAL BOARD RESPONSE: *Revision No. 2 to tentative Addendum No. 2 to Order 93-86, sent via email to your staff on June 3, 2005, contains the following findings (see Finding Nos. 2 and 3):*

- “2. *On May 8, 1999, the Anza Sanitary Landfill (Anza Landfill), Riverside County, stopped receiving wastes for disposal. On February 10, 2003, the Regional Board determined that the County of Riverside submitted a complete Joint Technical Document (JTD) for the closure of the Anza Sanitary Landfill. Therefore, it is appropriate to exclude the Anza Sanitary Landfill from the amendments in this addendum to Order 93-86.”*
3. *Sections 25143.1.5 and 25150.7 of the California Health and Safety Code were amended in 2004 specifying conditions whereby treated wood waste may be discharged into a composite lined portion of a solid waste landfill unit equipped with an engineered alternative liner and leachate collection and removal system.”*

Finding 2 and 3 support the Discharge Prohibition B.2 in the tentative Addendum:

- “2. *The Anza Landfill is hereby prohibited from accepting treated wood wastes for disposal.”*

Discharge Prohibition B.2 applies to the Anza Sanitary Landfill, as it is an inactive and unlined waste management unit (landfill) subject to regulation under both State (Title 27 CCR) and Federal (Title 40 CFR, Part 258) regulatory requirements for municipal solid waste (MSW) landfills.

There is no specific finding or requirement in the tentative addendum No. 2 to Order 93-86 that provides any rationale or exclusion of the Discharger, responsible for the Anza

Sanitary Landfill, from complying with the reporting requirements of the tentative Addendum No. 2 to Order 93-86. In fact, the electronic reporting regulations are specific about the types of “regulated facilities” and “Orders” included in the electronic reporting requirements:

1. *Section 3890(a) of Title 23, CCR clearly indicates that the electronic reporting regulations are intended to provide electronic access to reports, including soil, vapor, and water data prepared for the purpose of subsurface investigation or remediation of: “... or (3) a discharge of waste to land subject to Division 2 of Title 27 or Division 3, Chapter 15, of Title 23 of the California Code of Regulations.*
2. *Section 3892 of Title 23, CCR states: “The following reports are subject to the requirements of this Chapter, when those reports are required for the purpose of subsurface investigation or remediation of ... (3) a discharge of waste to land subject to Division 2 of Title 27 or Division 3, Chapter 15, of Title 23 of the California Code of Regulations.*
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 - (b) *Reports submitted pursuant to Division 2 of Title 27 or Division 3, Chapter 15 of Title 23 of the California Code of Regulations.*
 - (c)
 - (d)
 - (e) *Reports submitted pursuant to any other order of directive of the State Board, a regional board or a local agency.*
 - (f)”

As an inactive waste management unit subject to requirements of both the State and Federal (Title 40 CFR, Part 258) for municipal solid waste landfills; the Anza Sanitary Landfill is currently regulated by applicable provisions and requirements of Division 2 of Title 27 CCR and an Order (Order 93-86 and addenda thereto) issued by the San Diego Regional Board. The Regional Board staff conclude that the Anza Landfill clearly satisfies criteria for electronic reporting included in sections 3890(a), 3892(b), and 3892(e). The County of Riverside must comply with the electronic reporting requirements of section 3890 et seq. of Title 23, CCR.

DISCHARGER COMMENT: If it is the intent of this addendum to apply to the Anza Sanitary Landfill, the Department requests that the last line be stricken from §13.b(5) of the proposed Addendum, or be revised to state the following:

“The Discharger may be required to ~~shall also~~ continue to provide complete paper copies of submittals ~~all reports~~ to this Regional Board. Regional Board staff shall analyze submittals on a case by case basis to determine if it a reasonable need and benefit exists for the submittal of a paper copy and upon the determination that a paper copy is

necessary, Dischargers shall be notified of the determination and rationale behind the determination.”

The intention of Title 23 CCR §3890 is to replace the requirements for the submittal of paper copies of reports beginning July 1, 2005, with the exception as provided in Title 23 CCR §3895(b), which states:

“In addition to electronic submittal of reports required pursuant to this Chapter, a regulatory agency may require the submittal of a report, or portions thereof, in diskette, compact disc, or other form if the agency determines that the alternative form is necessary. The burden including cost, of these alternative forms shall bear a reasonable relationship to the need for alternative form and benefits to be obtained from the alternative form.”

The State Water Resources Control Board website also states:

“The electronic copy is intended to replace the need for a paper copy and is expected to be relied upon for all public information requests, regulatory review, and compliance/enforcement activities.”

Please be advised that it is not the intent of the Department to completely discontinue submittal of paper copies. The Department understands that there may be some submittals of paper copies would be appropriate and the Department plans to submit paper copies of all reports for the near future until the Geotracker database and associated electronic reporting has become routine. Title 23 §3890 allows for the Regional Board to request the paper form in addition to the digital submittal, and such requests should not be included as part of the Waste Discharge Requirements (WDR), but rather a separate letter. This will allow the paper copy to be eliminated in the future, if deemed appropriate, without the need for a change of the WDR.

REGIONAL BOARD RESPONSE: *We acknowledge your conclusion that the electronic reporting requirements are intended to eventually replace paper-reporting requirements and we also concur with the Department’s position on the need for a transition period to fully electronic reporting for regulated facilities.*

The applicable requirement of §13(b)(5) of Revision No. 2 to tentative Addendum No. 2 to Order 93-86, sent to your staff on June 3, 2005, is found in

“After July 1, 2005, the discharger shall submit any reports required by this Order electronically, in accordance with Section 3890 et. seq. of the California Code of Regulations, Title 23, Division 3. The Discharger shall also continue to provide complete paper copies of all reports to this Regional Board.”

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The electronic reporting regulations do not prohibit the Regional Board from including a request for continuation of paper reporting as part of Waste Discharge Requirements (WDRs). In fact, section 3892 lists specific types of "Orders" that are affected by these requirements suggesting that the Regional Boards should amend/revise those affected Orders to ensure Dischargers comply with the applicable reporting requirements (e.g., electronic and/or alternative forms of reporting as indicated in section 3895(b)).

The continuation of requirements to submit complete paper copies of reports and data is due to a number of considerations and factors, including the following:

- 1. This requirement is intended to allow the Regional Board to maintain the continuity of our public record for the Anza Sanitary Landfill. All of our records are currently in paper-based format for public review and information.*
- 2. The Regional Boards are not yet equipped with the minimum technological upgrades to support shifting our regulatory processes to a "paperless" electronic reporting system at this time. As a result, an interim requirement for Dischargers to continue providing complete paper copies of reports is necessary at this time.*
- 3. The State Water Board is currently working on developing the technological upgrades for the Regional Boards to effectively manage and review electronic submittals of data for regulated facilities.*

The Regional Board requests that the County of Riverside continue to submit complete copies of paper reports of information for the Anza Sanitary Landfill, until otherwise notified by the Regional Board. It is our understanding from the State Water Board management has encouraged the Regional Board Executive Officers to require the continuation of paper reporting for regulated facilities past July 1, 2005. As a result of the regulatory requirements and factors identified in this response, we respectfully decline your requested change the language of section 13(b)(5) in tentative Addendum No. 2 to Order 93-86 at this time.

DISCHARGER COMMENT: In a voice mail message from John Odermatt of the RWQCB staff on June 1, 2005, the RWQCB is preparing a site specific WDR for the Anza Sanitary Landfill. This document is currently in draft form and is expected to before the RWQCB for approval in September or October of this year. If the RWQCB does not want to make the changes to the blanket Order and it is verified that Addendum No. 2 to WDR Order 93-86 does not apply to the Anza Sanitary Landfill, revisions to address electronic submittal for the Anza Sanitary Landfill may be included through the anticipated site specific WDR scheduled for adoption this fall.

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REGIONAL BOARD RESPONSE: *The requirement for Dischargers to comply with electronic reporting requirements and provide complete paper copies of reports/data became effective on January 1, 2005. For the reasons stated above, the Regional Board finds it necessary to extend, for a temporary but undefined period of time, the requirement for Dischargers to continue providing complete paper copies of all technical reports and data submitted to comply with Orders issued by the Regional Board.*

The Regional Board plans to require compliance with applicable electronic reporting requirements into WDRs and Monitoring and Reporting Programs for all affected facilities regulated pursuant to criteria referenced in section 3890 et seq., Title 23, CCR. This action will include any future site-specific WDRs for the Anza Sanitary Landfill. At this time, the September to October 2005 timeframe for an agenda item to consider site-specific WDRs is our goal. The exact timing of an agenda item for the Regional Board to consider site-specific WDRs for the Anza Sanitary Landfill will necessarily depend upon a number of factors, including the staff resources available to the Land Discharge Unit and Regional Board meeting schedule.